

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH WALLACE,

Petitioner,

v.

JOHN KERESTES, et al,

Respondents.

CIVIL ACTION
NO. 15-5376

ORDER

AND NOW, this 8th day of August, 2018, upon careful and independent consideration of the petition for writ of habeas corpus, and after review of the Report and Recommendation of United States Magistrate Judge Marilyn Heffley, and the objections filed thereto, as well as all pending motions, it is hereby **ORDERED** as follows:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. The petition for writ of habeas corpus is **DENIED** with prejudice;
3. The Motion to Withdraw as Attorney for Petitioner filed by the Federal Community Defender's Office (Docket No. 39) is **GRANTED**;
4. All other pending motions are **DENIED**¹; and

¹ Currently pending before the Court are a Motion to Withdraw as Attorney for Petitioner filed by the Federal Community Defender's Office (Docket No. 39), Petitioner's *pro se* Motion to be Granted Standby Counsel, to Supplement Counsel's Brief, and for Appointment of Funds for Expert (Docket No. 44), and Petitioner's *pro se* Motion for Enlargement of Time to File Objections (Docket No. 45). First, the Federal Defender's motion to withdraw will be granted, as Petitioner clearly no longer wants their representation in this matter. Petitioner's Motion for Enlargement of Time is denied as moot, as he was given multiple extensions of time to file his objections to the Report and Recommendation. Lastly, Petitioner's *pro se* Motion to be Granted Standby Counsel, to Supplement Counsel's Brief, and for Appointment of Funds for Expert is denied. I am adopting Judge Heffley's Report and Recommendation and denying the habeas petition, as Judge Heffley properly determined that equitable tolling does not apply in this matter, and that Petitioner did not act with due diligence. Therefore, any additional briefing or experts would be moot, as the habeas petition lacks merit, and Petitioner's case is concluded.

5. There is no probable cause to issue a certificate of appealability.

BY THE COURT:

/s/ Jeffrey L. Schmehl
Jeffrey L. Schmehl, J.